

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff.

V.

JESUS BARRAGAN VALENCIA,

Defendant.

NO: 2:15-CR-10-RMP

ORDER MEMORIALIZING COURT'S ORAL RULING

The Court held Defendant Jesus Barragan Valencia's sentencing hearing on
January 6, 2016. During Defendant's sentencing hearing, the Court orally ruled on
Defendant's Motion for Downward Departure, **ECF No. 33**. Defendant was
represented and represented by Assistant Federal Defender John B. McEntire, IV. The
Government was represented by Assistant United States Attorney Caitlin
Nsgard, standing in for Assistant United States Attorney Stephanie Van Marter.
An Order is entered to memorialize the Court's oral ruling.

1 Defendant moved for a downward departure under U.S.S.G. § 4A1.3(b)(1)
2 on the basis that Defendant's criminal history category substantially over-
3 represented the seriousness of his criminal history. *See* ECF No. 33 at 2.
4 Defendant argued that fourteen of Defendant's twenty criminal history points were
5 related to convictions that were at least twelve years old. *Id.* Defendant argued
6 that two additional criminal history points should be excluded as they were
7 incurred while Defendant was under supervision for one of the above criminal
8 offenses. *Id.* at 3. Defendant concluded that, looking at Defendant's more recent
9 criminal history, Defendant should have four criminal history points for a criminal
10 history category of III. *Id.* During oral argument, Defendant orally amended
11 Defendant's motion by admitting that two prior convictions¹ should in fact be
12 included in Defendant's criminal history score. Therefore, Defendant requested
13 that the Court exclude eight criminal history points, reducing Defendant's criminal
14 history category from VI to V.

15 The Court denied Defendant's motion for downward departure. The Court
16 concluded that Defendant had committed the offenses while using the false
17 identification for which Defendant was being prosecuted. The Court noted that
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19 ¹ A third degree assault conviction in 2002 and a drug possession conviction in
20 2004.

1 Defendant's repeated violations of the law under another's name were evidence of
2 Defendant's disregard for laws, rules, and regulations. Further, the Court found
3 that many other driving offenses were not counted in Defendant's criminal history
4 score, resulting in a criminal history category that under-represents Defendant's
5 true conduct. Finally, the Court noted that Defendant's convictions caused
6 substantial hardship for the victim, as the victim was forced to remedy Defendant's
7 use of the victim's identity to accrue criminal convictions.

8 Accordingly, **IT IS HEREBY ORDERED** that Defendant's Motion for
9 Downward Departure, **ECF No. 33**, is **DENIED**.

10 The District Court Clerk is directed to enter this Order and provide copies to
11 counsel.

12 **DATED** this 7th day of January, 2016.

13 *s/ Rosanna Malouf Peterson*
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ROSANNA MALOUF PETERSON
15 Chief United States District Judge
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